

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN A. CORTESE

v.

**COMMISSIONER OF SOCIAL
SECURITY**

: CIVIL ACTION

:

: NO. 18-3437

:

:

:

ORDER


AND NOW, this 11th day of September 2019, upon considering Petitioner's *pro se* Complaint (ECF Doc. No. 2) followed by a counselled Request for relief and statement of issues on review (ECF Doc. No. 30), the Commissioner's Response (ECF Doc. No. 31), Petitioner's Reply (ECF Doc. No. 33), and for reasons in the accompanying Memorandum, it is **ORDERED**:

1. The Petition for review (ECF Doc. No. 30) is **GRANTED** and we **remand** to the Commissioner based solely on the Appointments Clause challenge consistent with the accompanying Memorandum;

2. The Petition for review (ECF Doc. No. 30) is **DENIED** as to the evidentiary challenges to the Administrative Law Judge's findings;

3. We **stay** the remand until following the entry of a Mandate from the United States Court of Appeals in the pending consolidated appeals on the Appointments Clause challenges in *Cirko* and *Bizarre* at Nos. 19-1772, 1773; and,

4. The Commissioner shall, within five business days of the return of a Mandate in the consolidated appeals, file a status Memorandum addressing whether this matter should then be remanded based upon the Court of Appeals' holdings or dismissed based upon our findings on the Petitioner's substantive challenges.



KEARNEY, J.